

REMARKS

Formal Matters

Currently pending in the application are claims 11-13. Examiner has allowed claim 11 and rejected claims 12-13 under 35 USC § 112 first paragraph.

Rejection of Claims 12-13 Under 35 USC § 112

Claims 12-13 are rejected under 35 USC § 112, first paragraph, for failing to comply with the written description requirement. Specifically Examiner asserts that the specification does not support “preventing infestation and attacks as has been claimed.” Office Action, 11/27/2009, p.6.

Applicants respectfully traverse.

Support for the claimed subject matter is found throughout the specification, and particularly within the Examples. Various studies presented in the Biological Examples section of the specification demonstrate the prevention of fungal infestation or attack. Plants are treated with compounds of the present invention and then inoculated with fungal species. Resulting data shows <20% infestation, <10% infestation, etc. See, specification, p.30-33. For example, Example B1 reports 0-5% infestation, where Applicants report, “prevention of infestation is prevented virtually completely.” Specification, p.30.

Examiner fails to offer any meaningful specificity in making this rejection by which Applicants may substantively respond. No relevant portions of the specification are referenced or even acknowledged by the Examiner, i.e., Examiner does not reference the data presented in the Biological Examples section discussed above. Applicants have no way of knowing why the Examiner believes the specification is deficient. The entirety of Examiner's rejection is essentially limited to six (6) lines of text, which itself is merely conclusory. For example, with respect to claim 13, Examiner states that “claim 13 contain the term ‘preventing’ which Applicant have no possession at the time the invention was filed [*sic.*]” Office Action, 11/27/2009, p. 5. No analysis in support of this conclusion is provided. The remaining page and a half of the rejection offers mere recitation of case law, completely devoid of any application or analysis to the pending claims or specification.

Accordingly, Examiner's rejection is not well-taken. Applicants respectfully request that Examiner withdrawal the rejection of claims 12-13 under 35 USC § 112, first paragraph, based on

the remarks provided above, or that Examiner re-issue a non-final rejection which properly explains the alleged deficiency of Applicants specification in support of the rejected claims.

CONCLUSION

For the reasons set forth above, Applicants respectfully submit that the present Response overcomes all outstanding objections and rejections. Applicants submit that the subject matter of all pending claims is patentable and that such claims are in condition for allowance.

The Commissioner is hereby authorized to charge any additional fees under 37 CFR §1.17 which may be required, or credit any overpayment, to Account No. 50-1676 in the name of Syngenta Crop Protection, Inc.

Respectfully submitted,

USPTO Customer No. 26748
Syngenta Crop Protection, Inc.
Patent and Trademark Dept.
410 Swing Road
Greensboro, NC 27409
(336) 632-5785

/William Mulholland/
William F. Mulholland, II
Attorney for Applicants
Reg. No. 45,684

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